REMARKS

The Final Office Action mailed July 24, 2008, has been received and reviewed. Each of claims 1–38 stands rejected. Claims 27-38 have been amended herein. Accordingly, claims 1–38 remain pending. Reconsideration of the above-identified application in view of the above amendments and the following remarks is respectfully requested.

Rejections based on 35 U.S.C. § 112

Claims 27-38 are rejected under 35 U.S.C. § 112, first paragraph, on the basis that the specification does not reasonably provide enablement for a claim covering every conceivable means for achieving the recited purpose of generating a set of clinically related supplies. As presently amended, claims 27-38 do not describe a "set of clinically related supplies generated for delivery" that perform a function. As presently amended, claims 27-38 describe a method for generating a "set of clinically related supplies generated for delivery." Applicants respectfully request the withdrawal of the 35 U.S.C. § 112, first paragraph, rejection of claims 27-38.

Claims 27-38 are rejected under 35 U.S.C. § 112, second paragraph, on the basis that the claims recite both an apparatus and a method for using said apparatus. As presently amended, claims 27-38 recite a method for generating a "set of clinically related supplies generated for delivery." Thus, claims 27-38 do not recite both an apparatus and method for using said apparatus. Accordingly, Applicants respectfully request the withdrawal of the 35 U.S.C. § 112, second paragraph, rejection of claims 27-38.

Rejections based on 35 U.S.C. § 102

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdeggal Brothers v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir.

1987). "The identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 2 USPQ 2d 1913, 1920 (Fed. Cir. 1989). *See also*, MPEP § 2131.

Claims 1-38 are rejected under 35 U.S.C. § 102(b) as being unpatentable over U.S. Patent Number 5,682,728 to DeBusk et al. (hereinafter "DeBusk reference") As the DeBusk reference fails to describe, either expressly or inherently, each and every element of claims 1-38, Applicants respectfully traverse the rejection, as hereinafter set forth.

Independent claim 1 recites a system for automatically fulfilling orders for clinical supplies. The system includes an interface to a supply chain engine, the supply chain engine automatically generating at least one order for clinically related supplies based upon supply consumption data derived from documentation of at least one clinical event reported from at least one clinically related site. The supply consumption data includes items used and/or consumed during the at least one clinical event. The system also includes a fulfillment engine, communicating with the interface to the supply chain engine, the fulfillment engine triggering delivery of clinically related supplies based at least upon the order for clinically related supplies.

The DeBusk reference, on the other hand, describes the management of consumable medical supplies by creating bills of material associated with care events within a clinical pathway. *See DeBusk reference* at col. 2, l. 29-37. A bill of materials representing those medical supplies "to be used" for a scheduled care event is generated and those supplies are placed into supply bundles at a number of locations and then delivered in bundled form to the end-user. *See id.* at col. 2, l. 50 to col. 3, l. 2; and col. 3, l. 34. The DeBusk reference also discloses anticipating supply usage based upon historical records relating to the frequency of

occurrence of given care events at a particular facility and/or aggregated facility usage of common medical supplies over time. *See id.* at col. 2, l. 59 to col. 6, l.13.

It is respectfully submitted that the DeBusk reference fails to describe, either expressly or inherently, "automatically generating at least one order" based on supply consumption data including items used and/or consumed during a clinical event. The DeBusk reference describes the management and procurement of supply bundles containing medical supplies "intended for use" in a future care event. *See DeBusk reference* at col. 5, l. 22-45. The number of bundles ordered during the year may be based on historical usage data that shows how many bundles are typically used during a period of time. *See id.* at col. 2, l. 59 to col. 6, l.13. In contrast, claim 1 describes automatically generating orders to replenish used supplies (i.e., items used and/or consumed during a clinical event). The DeBusk reference does not describe automatically generating orders based on items used and/or consumed. Thus, the DeBusk reference does not describe "automatically generating at least one order" based on supply consumption data

As the DeBusk reference fails to describe each and every element of independent claim 1, Applicants respectfully submit that claim 1 is not anticipated by the DeBusk reference. Each of claims 2–14 depends, either directly or indirectly, from independent claim 1 and defines further patentable features. For example, claim 4 recites a system according to claim 1, wherein the supply chain generates the at least one clinical supply order based upon at least one clinical quantity threshold. In contrast, the DeBusk reference describes stocking units of supplies based on calculable demands. *See DeBusk reference* at col. 3, ll. 45-50. The calculable demand in the DeBusk reference describes what the demand for a bundle will be overtime. Quantity thresholds are not described. Thus, the DeBusk reference does not describe generating an order at a

particular inventory threshold. Accordingly, it is respectfully submitted that the DeBusk reference does not anticipate claims 2-14 for at least the above-cited reasons. As such, withdrawal of the 35 U.S.C. § 102(b) rejection of claims 1-14 is requested.

Independent claim 15, recites a method for automatically fulfilling orders for clinically related supplies. The method includes automatically generating at least one order for clinically related supplies based upon supply consumption data derived from documentation of at least one clinical event from at least one clinically related site, the supply consumption data including items used and/or consumed during the at least one clinical event. The method also includes triggering delivery of clinically related supplies based at least upon the at least one order for clinically related supplies.

For reasons substantially similar to those given with reference to claim 1, the DeBusk reference fails to describe, either expressly or inherently, automatically generating at least one order for clinically related supplies based upon supply consumption data. Thus, Applicants respectfully submit that the DeBusk reference fails to describe each and every element of independent claim 15. Therefore, the DeBusk reference does not anticipate claim 15. Each of claims 16-26 depends, either directly or indirectly, from independent claim 15. Accordingly, it is respectfully submitted that the DeBusk reference does not anticipate claims 16-26 at least by virtue of their dependency from allowable claim 15. As such, withdrawal of the 35 U.S.C. § 102(b) rejection of claims 15-26 is requested.

As presently amended, independent claim 27 recites a method for generating a set of clinically related supplies generated for delivery. The method includes automatically generating at least one order for clinically related supplies based upon supply consumption data derived from documentation of at least one clinical event from at least one clinically related site,

the supply consumption data including items used and/or consumed during the at least one clinical event. The method also includes triggering delivery of clinically related supplies based at least upon the at least one order for clinically related supplies.

For reasons substantially similar to those given with reference to claim 1, the DeBusk reference fails to describe, either expressly or inherently, automatically generating at least one order for clinically related supplies based upon supply consumption data. Thus, Applicants respectfully submit that the DeBusk reference fails describe each and every element of independent claim 27. Therefore, the DeBusk reference does not anticipate claim 27. Each of claims 28-38 depends, either directly or indirectly, from independent claim 27. Accordingly, it is respectfully submitted that the DeBusk reference does not anticipate claims 28-38 at least by virtue of their dependency from allowable claim 27. As such, withdrawal of the 35 U.S.C. § 102(b) rejection of claims 27-38 is respectfully requested.

CONCLUSION

For at least the reasons stated above, claims 1-38 are now in condition for allowance. Applicants respectfully request withdrawal of the pending rejections and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned – 816-474-6550 or johoward@shb.com (such communication via email is herein expressly granted) – to resolve the same.

It is believed that no additional fee is due in conjunction with this filing. However, if this belief is in error, the Commissioner is hereby authorized to charge any amount required to Deposit Account No. 19-2112.

Respectfully submitted,

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